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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/458,190 | 12/09/1999 | BRADLEY CAIN | 2204/185 | 8564 |
| 34845 | 7590 | 06/06/2006 | EXAMINER | |
| McGUINNESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720 | | | VO, LILIAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2195 | |

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|---------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/458,190 | CAIN, BRADLEY | |
| | Examiner | Art Unit | |
| | Lilian Vo | 2195 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 March 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1, 3 – 6, 8 – 11 and 13 – 15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1, 3 – 6, 8 – 11 and 13 – 15 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1, 3 – 6, 8 – 11 and 13 – 15 are pending. Claims 2, 7 and 12 have been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5, 6, 8, 10, 11, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by CRAYFORD (U.S. Patent 5,404,544).

4. As to **claim 1**, CRAYFORD teaches a computer implemented method for expediting a selected operation (normal operations / data flow transmissions) in a computer system (system), the method comprising:

associating a plurality of routing operations (normal operations / data flow transmissions) (col. 7, lines 15-46) with an operating system routing task (MAC / operating software), the plurality of routing operations including the selected operation (normal operations / data flow transmissions);

executing the operating system routing tasks at a low priority level (power saving mode / normal mode) prior to performing the selected operation; and

raising the operating system routing task to a high priority level (normal mode / power saving mode) in order to perform the selected operation in response to a detection of a trigger condition (indication of a link status) comprising a link state advertising message indicating that the selected operation is to be performed (via the link status indicating that a link is established to thereby allowing the MAC / operating software to execute the normal operations) (col. 4, lines 7-43., col. 8, lines 6-22; abstract). It is inherent from the teachings of CRAYFORD that the inactive (sleep) and active (normal) modes have a priority level to one another since the sleep mode is either low (col. 7, lines 55-66) or high in relation to the other mode (abstract).

5. As to **claim 3**, CRAYFORD teaches the operating system task is a routing task (via performing data flow transmissions) (col. 7, lines 15-46) and wherein the link state advertisement protocol message includes link status information (via indicating the status condition of a link) (abstract).

6. As to **claim 5**, CRAYFORD teaches lowering the operating system task to the low priority level upon completion of the selected operation (via the link is not connected anymore and therefore the status of the link is disconnected such that the MAC / operating software returns to a sleep mode) (col. 4, lines 7-43; col. 8, lines 6-22; abstract).

7. As to **claims 6, 8 and 10**, reference is made to a computer device that corresponds to the method of claims 1-3 and 5 and is therefore met by the rejection of claims 1-3 and 5 above.

Art Unit: 2195

8. As to **claims 11, 13 and 15**, reference is made to a program product that corresponds to the method of claims 1-3 and 5 and is therefore met by the rejection of claims 1-3 and 5 above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 9, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over CRAYFORD (U.S. Patent 5,404,544) in view of Applicant's Admitted Prior Art (AAPA).

11. As to **claim 4**, CRAYFORD teaches executing routing operations by the operating system task (MAC / operating software) based on information received in a link state protocol message (link status) (col. 4, lines 7-43; col. 8, lines 6-22; abstract). CRAYFORD also teaches that varies changes can be made based upon the cited invention (col. 8, lines 39-43). However, CRAYFORD does not teach that the operations are Dijkstra operations.

AAPA teaches that when a node receives a LSA message, the node updates its topology information database by running a special algorithm to determine the routes based upon the updated topology information wherein a well-known algorithm for determining the routes is a Dijkstra shortest path algorithm (pg. 1, lines 26-30). Therefore, it would be obvious to combine the teachings of CRAYFORD with the teachings of APA in order to facilitate computation of a shortest path based upon a link state advertisement (col. 30, lines 30-31).

12. As to **claim 9**, reference is made to a computer device that corresponds to the method of claim 4 and is therefore met by the rejection of claim 4 above.

13. As to **claim 14**, reference is made to a program product that corresponds to the method of claim 4 and is therefore met by the rejection of claim 4 above.

Response to Arguments

14. Applicant's arguments filed 3/7/06 have been fully considered but they are not persuasive for the reasons set forth below.

15. In response to applicant's argument that Crayford is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Crayford discloses a system for transmitting data in the network.

16. With respect to applicant's remark that the examiner has failed to give patentable weight to the term "routing" (page 7, 3rd paragraph), the examiner disagrees. Applicant is directed to the office action where the examiner also indicated that a routing operation is a data flow

transmissions. Furthermore, according to the OSI protocol layers 3, transmitting is also a routing operation.

Regarding applicant's arguing that Crayford neither describes or suggest routing since it does not deal with layer of the OSI model (page 7: 4th – 5th paragraphs), applicant is arguing a feature of the invention not specifically stated in the claim language, which is improper. Claim subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art. In re Self, 213 USPQ 1,5 (CCPA 1982); In re Priest, 199 USPQ 11,15 (CCPA 1978).

Further, while it is appropriate to use the specification to determine what applicants intends a term to mean, a positive limitation from the specification cannot be read into a claim that does not impose that limitation. A broad interpretation of a claim by Office personnel will reduce the possibility that the claim, when issued, will be interpreted more broadly than is justified or intended. Applicants can always amend a claim during prosecution to better reflect the intended scope of the claim.

17. With respect to applicant's remark that Crayford does not suggest "executing the operating system routing task at a lower priority level" in the "off state" (page 8, 1st paragraph), the examiner disagrees. Suspending clock inputs to the MAC in the power saving mode does not mean that the CPU clock is not working.

18. With respect to applicant's remark regarding "...the use of the term priority in the claimed invention refers to 'tasks'..." and "... a task having a high or low priority" (page 8, 2nd

paragraph), claim languages has been interpreted by the office as the priority level of the execution and not the priority of the task itself.

19. With respect to applicant's remark that Crayford neither describes nor suggests the limitation "associating a plurality of routing operations with an operating system routing task" (page 8, 3rd – 4th paragraph), applicant is directed to the responses as stated above and the rejection where routing operations is referred to data flow transmission and the operating system routing task is referred to MAC/ operating software.

With respect to applicant's remark that Crayford neither describes nor suggests a link state advertising message, "... a term used in the routing art to describe a packet of information that is forwarded and includes link state information, that is used for the purposes of route calculations" (page 9, 3rd paragraph), applicant is arguing a feature of the invention not specifically stated in the claim language, which is improper. Claim subject matter, not the specification, is the measure of invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art. *In re Self*, 213 USPQ 1,5 (CCPA 1982); *In re Priest*, 199 USPQ 11,15 (CCPA 1978).

Further, while it is appropriate to use the specification to determine what applicants intends a term to mean, a positive limitation from the specification cannot be read into a claim that does not impose that limitation. A broad interpretation of a claim by Office personnel will reduce the possibility that the claim, when issued, will be interpreted more broadly than is

Art Unit: 2195

justified or intended. Applicants can always amend a claim during prosecution to better reflect the intended scope of the claim.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist at 571-272-2100.

Art Unit: 2195

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo
Examiner
Art Unit 2195

lv
May 27, 2006


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